16. (Original) The polyester film as claimed in claim 1, wherein the haze of the film, measured according to ASTM D 1003, is less than 20%.

17. (Original) The polyester film as claimed in claim 1, wherein the film has a Yellowness Index of < 10.

REMARKS

On page 2 numbered paragraph 4 of the Office Action, the Examiner rejects claims 1 – 17 under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner takes issue with the phrase "does not embrittle" as being an undefined term of degree, and that Applicant should further quantify how "embrittlement" was measured. As per the comments hereto, this rejection is respectfully traversed.

As the Examiner points out, "embrittle" means easily broken, cracked or snapped. This is exactly what the Applicant means when using this term. An "embrittled" film is one that easily breaks, cracks or snaps. The mechanical properties and tear strengths of an "embrittled" film have degraded to such an extent that it is impossible to measure them. There is no useful modulus, and the film cannot be wound into rolls. The "embrittled" film breaks upon handling. Attempts to measure physical properties of an "embrittled" film would be unsuccessful, since any slight force exerted on the film would result in the breaking thereof. Thus, any measurements of tenacity, modulus or the like would yield no useful results. The film would break before measurements could be made. As defined, and as used by the Applicant, "embrittlement" cannot be measured. It is a property inherent in a film that has no useful physical or mechanical properties.

On page 3 numbered paragraphs 5 – 36 of the Office Action, the Examiner rejects claims 1 – 17 under 35 USC 103(a) as being unpatentable over Murschall et al. (DE 19630599) in view of Oishi et al. (5936048) and Rogers et al. (US 5804626).

Specifically, the Examiner points out that Murschall et al. teach a transparent PET film that contains at least one antioxidant. Murschall is one of the named inventors in the present application as well. Oishi et al. teach a method for preparing a modified PET resin that can contain flame retardant additives. Rogers et al. is relied upon by the Examiner to disclose the inclusion of hydrolysis stabilizers to prevent the catalytic breakdown of the polyester film at high temperatures.

At the time the present application was filed, both this application and the Murschall patent (DE 19630599) were commonly owned or under an obligation of assignment to Mitsubishi Polyester Film GmbH. Mitsubishi Polyester is the successor in interest to Hoechst AG, the original assignee of the '599 patent. Therefore, under 35 USC 130(c), the DE 19630599 reference is disqualified from being used in a rejection under 35 U.S.C. 103(a) against the claims of the current application.

In light of the comments hereto and the disqualification of the Murschall reference under 35 USC 103(c), the prior art cited by the examiner no longer discloses or even fairly anticipates Applicant's current invention. This application is now believed to be in a condition of allowance, and such favorable action is respectfully requested.

Respectfully submitted,

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Attorney's Docket No. 00/001 MFE